IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FOURTH DAY OF MAY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11399 of 2005

Between:

Mr. T. Chandra Mohan Goud S/o. T. Krishna
R/o. H.No. 1-7-196, Paradise X Roads, S.D. Road,

Secunderabad-500 003.

..... PETITIONER

AND

1 The Addl. Commissioner, Municipal Corporation of Hyderabad,

at Secunderabad
2 The Health Officer, Municipal Corporation of Hyderabad,

at Secunderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents in not removing the garbage bin which is placed opposite to the paradise complex, Secunderabad as unjust, arbitrary, against public interest and further direct the respondents to remove the garbage bin which is placed opposite to the Paradise Complex, Secunderabad.

Counsel for the Petitioner:MR.ADNAN MAHMOOD

Counsel for the Respondents: SMT.G.JYOTHI KIRAN

The Court made the following :

THE HON'BLE SRI JUSTICE V. ESWARAIAH

AND

THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.11399 OF 2005

ORDER: (per the Hon'ble Sri Justice V. Eswaraiah)

Heard the learned counsel for the petitioner as well as the learned Standing Counsel for the Municipal Corporation of Hyderabad.

It is stated by the learned counsel appearing for the petitioner that paradise circle road is fully commercial area surrounded by hotels, lodges etc., where consumption of bulk non-vegetarian food is taking place. The respondents have granted licences for carrying on trade of eating houses or hotels after complying with required formalities, such as imposing condition that the licensee shall make adequate provision within the hotel premises for parking and also place for refuse and rubbish. Under Section 483 of the Hyderabad Municipal Corporation Act, 1955 (for short, the Act), it is the duty of the licensee of such eating house or hotel to dispose of the refuse and rubbish and make arrangements for disposal of the said refuse, rubbish and other eatables every day.

It is also stated that the petitioner is a resident residing near paradise complex, Secunderabad situated on the road leading to Penderghast road facing towards Mahatma Gandhi Road, Parsi Compound, A.P.Transco Sub-station. In front of the said paradise complex, i.e., on the place leading to Penderghast road nearby the paradise hotel, a garbage bin was placed up by the Municipal Corporation of Hyderabad. In the said garbage bin left over non-vegetarian and vegetarian food is dumped and by the evening there is rotten smell causing inconvenience to the general public passing through the road. Several complaints have been made previously in this regard. Therefore, the commercial establishments, including hotels and eating houses, had tie up with Municipal Corporation of Hyderabad for collecting garbage and waste through pick up van in a schedule time. As there is a garbage bin and therefore the hoteliers nearby the said garbage bin are dumping refuse and rubbish. The petitioner made representations dt.14.4.2005 and 2.5.2005 to remove the garbage bin, but no action has been taken. It is stated that there is no necessity for keeping garbage bin near the paradise complex, as it is a commercial zone covered by shops, establishments, and hotels and there are no residential houses, and that the commercial establishments had tie up with Municipal Corporation of Hyderabad for collecting garbage and waste through a pick up van as per the schedule time. As the garbage bin has not been removed staff of the hotels, eating houses and commercial establishments are misusing the said garbage bin by throwing refuse and rubbish. The left over food articles such as chicken biryani, mutton etc., are being dumped in the said garbage bin. The said things decomposed and the smell emanating is so horrible. The passersby are not able to enter or go out of Prenderghast Road. Taking advantage of the said situation of the garbage, several people doing urination and the entire area has become polluted. Because of the said garbage bin, stray animals are assembling there and creating traffic problems and sometimes causing accidents and also disturbing the business atmosphere in the commercial center. There is Wesley Boys Junior College situated opposite to the Paradise complex and the students are affected with

the foul smell and air pollution. The garbage bin is also causing inconvenience to the customers of commercial shops and other people and thus it is necessary to remove the garbage bin from the existing place, i.e., opposite paradise complex.

Under Section 483 of the Act, it is the duty of the owners and occupiers of the eating houses and hotels and commercial establishments, where large quantity of refuse and rubbish accumulated, to deposit the same in their places and remove the same as directed by the municipal authorities. It is stated that though the respondents have taken steps directing the commercial establishments for the disposal of the large quantity of the refuse and rubbish, because of the garbage bin, the staff and workers of the said eating houses and hotels are disposing of left over food and other eatables in the said garbage bin, and therefore the entire area is polluted with rotten smell and people are not able to pass through the said area. The owners of the commercial establishments have not stopped throwing refuse and rubbish in the dust bin. It is further stated that under Section 489 of the Act if the licensees of the commercial establishments refuse to keep their premises clean and remove rubbish and filth accumulated in large quantity in the premises, it is open to the Commissioner of Municipal Corporation of Hyderabad to issue necessary directions to respondents, but the respondents have not taken any action and they have become spectators for the nuisance caused by the said commercial establishments. It is further stated that insofar as the residential area is concerned, there are sufficient garbage bins and there is no necessity to provide garbage bin in the commercial establishments.

Having regard to the facts and circumstances of the case, the respondents are directed to remove the garbage bin opposite paradise complex, and also take appropriate action against concerned commercial establishments, hotels and eating houses for the disposal of their refuse and rubbish by themselves, in accordance with law and in the interest of public.

The Writ Petition is accordingly disposed of.

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(V. ESWARAIAH)

24.5.2005

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(K.C. BHANU)

bnr

DEPUTY REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Addl. Commissioner, Municipal Corporation of Hyderabad,

at Secunderabad

2 The Health Officer, Municipal Corporation of Hyderabad,

at Secunderabad

3. 2 CD copies.